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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,563	11/20/2001	Stephen R. Bacso	1028-009US01	3486

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EXAMINER

LIN, WEN TAI

ART UNIT	PAPER NUMBER
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2154

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/991,563

Applicant(s)

BACSO ET AL.

Examiner

Wen-Tai Lin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2001.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-18 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 15 April 2002 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5/13/02, 7/8/02.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-18 are presented for examination.
2. Claims 3, 5, 7-8 and 12 are objected to because of the following informalities:
 - i. As to claims 3 and 5, it is not clear what is meant by "pre-matching the opportunities" versus "matching the opportunities" because it is perceived that both features are performed or scheduled prior to the addition of alternate content. For the prior art rejection in this office action, the two terms are construed as equivalent.
 - ii. As to claims 5, 7-8 and 12, it is not clear what's the peculiarity in each of the acronyms "MDE" and "ME/DE" (e.g., micro decision engine) represents and how is it different from a program/routine that performs the same in a general processor? For the prior art rejection in this office action, the "systems" or "engines" represented by these terms are being construed as program modules written to perform the same designated functions.Clarification is required in response to this office action.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 3-12 and 14-15 are rejected under 35 U.S.C. 112 2nd paragraph because the following terms lack antecedent basis:

In claim 3, "the programming stream"

In claim 3, "the source"

In claim 3, "the opportunity"

In claim 3, "the available content"

In claim 3, "the viewer characteristics"

In claim 3, "the secure audit log"

In claim 3, "the viewing result"

In claim 4, "the secure audit log"

In claim 4, "the viewing result"

In claim 5, "the programming"

In claim 5, "the available content"

In claim 5, "the source"

In claim 6, "the secure audit log"

In claim 6, "the viewing result"

In claim 7, "the content descriptor transmission stream"

In claim 7, "the opportunity map descriptors"

In claim 7, "the content descriptors"

In claim 7, "the viewer profile information"

In claim 7, "the mde"

In claim 7, "the new content"
In claim 7, "the designated source"
In claim 8, "the me/de"
In claim 8, "the mde"
In claim 9, "the mde"
In claim 9, "the viewers"
In claim 9, "the operator"
In claim 10, "the viewers profile data"
In claim 11, "the data"
In claim 12, "the mde"
In claim 12, "the capabilities"
In claim 14, "the guidance"
In claim 14, "the end-user components"

5. Further, the added feature in claim 6 appears to be identical to its parent claim (i.e., claim 4).

6. Claims 8 and 12 are rejected under 35 U.S.C. 112 second paragraph because the terms: "certain components", "new feedback algorithms", "better functional capability" (in claim 8) and "the various receiver models" (in claim 12) are considered indefinite. That is, neither the specification nor the claim language itself conveys in such a manner as to enable an ordinary skill in the art to make and use the same invention (as required by 35 U.S.C. 112 first paragraph) without specifically spelling out

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what are the components, algorithms, the receiver models, and at what level of capability would it achieve "a better functional capability".

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-2, 13 and 16-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Eldering;[U.S. Pat. No. 6324519].

9. As to claim 1, Eldering; teaches the invention as claimed including: a method for dataflow management in interactive communications networks, the method comprising the steps of [Abstract; col.1, lines 36-44; col.2, lines 8-13]: determining characteristics of network components; and managing dataflow in accordance with said determined characteristics [col.4, lines 55-64].

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10. As to claim 2, Eldering; teaches the invention as claimed including: a method for targeting content to users in a communications network [Abstract; col.1, lines 36-44; col.2, lines 8-13], the method comprising the steps of: determining targeted user characteristics; and presenting content in accordance with said characteristics [col.4, lines 35-45].

11. As to claims 13 and 16-18, since the features of these claims can also be found in claims 1-2, they are rejected for the same reasons set forth in the rejection of claims 1-2 above.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 3-9, 12 and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eldering; [U.S. Pat. No. 6324519], as applied to claims 1-2, 13 and 16-18 above.

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14. As to claim 3, Eldering; for targeted content presentation in a communications network for regularly scheduled content opportunities, the method comprising the steps of:

monitoring the programming stream for opportunities and content descriptors [note that by default each targeted content must be associated with a content descriptor];

determining the source for alternate content [col.3, lines 31-36];

matching the opportunity to the available content and the viewer characteristics; and presenting content to the viewer [col.1, lines 55-67].

Eldering; further teaches that based on the viewing characteristics of the subscriber, and in particular on the viewing time duration, or time spent on each channel or site, a subscriber profile is formed and updated [col.4, lines 44-47; col.5, lines 59-65]. Although Eldering; does not specifically teach the subscriber profile is kept in a secure audit log. However, it is typical to keep consumers' viewing record in secured log because such practice ensures that the follow-up billing would be accurate and the record is kept confidential.

15. As to claims 5, 7 and 14, Eldering teaches substantially the same invention as described in claim 1-3 above.

Eldering does not specifically teach checking security rights at a function invocation to determine appropriateness of content insertion prior to presenting the content to the viewer and updating pre-matched opportunities for next function

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invocation. Likewise, Eldering does not specifically teach verifying access rights to storage, and if access rights are verified, verifying availability of storage, or otherwise filter inappropriate data from the multimedia stream.

However, it is well known in the art of video on-demand area wherein parental control is available to keep inappropriate material from being presented to corresponding minors.

It would have been obvious to one of ordinary skill in the art to have implemented a similar security control and the necessary invocation process by verifying access rights to storage in Eldering's system because the security check ensures appropriate material is delivered to the right persons.

16. As to claims 8, 12 and 15, Eldering does not specifically teach that (i) the MDE also forwards configuration triggers that indicate to the MDE if certain components need to be replaced to enable dynamic adaptation of the system to new feedback algorithms, better functional capability, and/or component code fixes; and (ii) providing a plurality of delivery engine instances for load balancing.

However, providing system flexibility to adapt future changes and load balancing are well known in the art of media streaming.

It would have been obvious to one of ordinary skill in the art to recognize that Eldering's requires tremendous processing power and faces rapid changes in system requirement and system performance and step up with adaptation and load balancing

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(by, e.g., deploying parallelism or making use of multi-thread execution approach)

because these are well-developed measures to alleviate the issues.

17. As to claims 4, 6 and 9, since the features of these claims can also be found in claims 1-3, they are rejected for the same reasons set forth in the rejection of claims 1-3 above.

18. Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eldering [U.S. Pat. No. 6324519], as applied to claims 1-6, 9-11, 13-14 and 16-18 above, further in view of Official Notice.

19. As to claims 10-11, Eldering does not specifically teach encrypting viewers profile and keep it in a CA system.

However, Official Notice is taken that keeping customer's confidential information in a secured part of a system is well known in the art.

It would have been obvious to one of ordinary skill in the art to have securely stores Eldering's viewers profile because such practice would increase Eldering' system/method for customer base.

20. A shortened statutory period for response to this action is set to expire 3 (three) months and 0 days from the mail date of this letter. Failure to respond within the period

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for response will result in ABANDONMENT of the application (see 35 U.S.C. 133, M.P.E.P. 710.02, 710.02(b)).

Conclusion

Examiner note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the contest of the passage as taught by the prior art or disclosed by the Examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wen-Tai Lin whose telephone number is (571)272-3969. The examiner can normally be reached on Monday-Friday (8:00-5:00) .

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571)272-3964. The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

(703)872-9306 for official communications; and

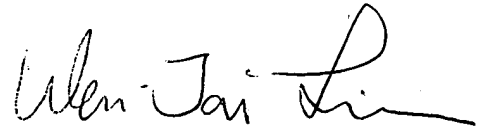
(571)273-3969 for status inquiries draft communication.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wen-Tai Lin

May 2, 2005


5/2/05